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# STATE OF INDIANA

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DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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## Frequently Asked Questions

### Auditors' Association 2015 Spring Conference

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#### DEDUCTION QUESTIONS

1. **Question:** When will we get information about the assessment date change to January 1 and whether there are any changes to deduction deadlines or bill payment deadlines?

**Answer:** The Department issued a memo on this topic in June, 2014 (available here: [http://www.in.gov/dlgf/files/pdf/140610 - Vincent Memo - Property Tax Assessment Timeline - revised.pdf](http://www.in.gov/dlgf/files/pdf/140610_-_Vincent_Memo_-_Property_Tax_Assessment_Timeline_-_revised.pdf)). The Department will release reminder information in the near future. There are no changes to the deduction filing deadline or the tax bill due dates.

2. **Question:** For purposes of the over 65 deduction, should we make a copy of the 1040 for our records, or can we merely review the tax return in order to grant the deduction?

**Answer:** State law requires the applicant to submit for your inspection a copy of their income tax return. There is no obligation for the taxpayer to permanently turn over a copy to you or for you to retain a copy. It would be sufficient for the person to show you their return and have you simply make a notation on the application or elsewhere in the county records that you saw the return and verified the applicant's income.

3. **Question:** Can we ask individuals who have filed for a Disability deduction for a recent letter (proof) of disability? This would be for the ones that have filed more than 5 years? If we get a letter from a doctor for proof of disability, how often should we request for additional proof?

**Answer:** State law does not provide for a "verification" process for this deduction. Although a county could perhaps contact a recipient of this deduction and inquire about the person's status, counties have no express statutory authority to demand that a recipient of the deduction supply verifications or other forms of proof beyond what is required under statute. If a county does determine, in reliance on actual proof or evidence, that a recipient of any deduction is ineligible for the deduction, the auditor has authority to terminate that deduction.

4. **Question:** How are we to figure a person's "*gross taxable income*"? (This is for a person who is filing for a disability or blind deduction. We know how to find the *adjusted gross income* on the income tax returns, but we have yet to find a place that shows the *gross taxable income*.)

**Answer:** The Department has advised that auditors consider the applicant's adjusted gross income for purposes of both the over 65 deduction and the blind/disabled deduction, and that only income subject to federal income taxation counts toward that threshold.

5. **Question:** A veteran brought in a Certificate of Eligibility for his veterans deductions in 2013. The form had a Code 1 and we applied his deduction according to the certificate. In 2014, he brought in a copy of a letter he received from the VA that raised his percentage of disability to 30%. Do we increase the amount of his deduction or do we leave it at the amount we have now?

**Answer:** A veteran that has a service-connected disability of at least 10% can potentially obtain a deduction of \$24,960. If at the time the veteran obtains this deduction his disability is 10% but subsequently rises to a 30% disability, the deduction does not increase. However, it is possible that if the veteran ends up totally disabled and/or he reaches the age of 62, he could potentially apply for the totally disabled veteran deduction of \$12,480 and receive both deductions. But there is no "sliding-scale" that ties the amount of the deduction to the percentage of disability.

6. **Question:** If property goes into Sheriff's sale and then does not sell and therefore goes back to the bank, when do we take deductions/exemption off of this property?

**Answer:** If the deductions were validly in place on the assessment date and later that year the property reverts to the bank, the deductions will remain in place for that assessment date. The deductions would then be removed for the following assessment date.

7. **Question:** Mobile Homes that are not assessed as real property may not exceed ½ the assessed value when it comes to deductions. So if a mobile home has a value less than 90,000 can any other deductions be applied? (Besides Homestead & Supplemental).

**Answer:** Under state law, personal property mobile homes can qualify for most deductions. For instance, a person could apply for homestead, mortgage, disabled person, and disabled veteran deductions for a mobile home. The question then becomes how much of these deductions can be applied to the personal property mobile home before it hits the 50% cap (please note that the supplemental homestead deduction is not bound by this 50% cap). If a personal property mobile home hits its 50% cap after the standard homestead deduction has been applied, the other deductions could be applied to the land the mobile home sits on (assuming the mobile home owner also owns the land). If the mobile home owner does not own the land, he could apply the veteran deduction toward excise taxes, but he would probably be out of luck on the mortgage and disabled person deductions.

8. **Question:** When we ask about income pertaining to deductions requirements, we always get the answer that they do not file income tax. Is there a way to verify that they do not file income tax?

**Answer:** The over 65 deduction statute says that "If either [spouse] was not required to file an income tax return, the applicant shall subscribe to that fact in the deduction statement." Thus, if the over 65 deduction applicant claims he or she did not need to file a tax return for the previous year, then he or

she should state this on the deduction application form. The blind/disabled deduction statute does **not** require the applicant to submit for inspection a copy of his or her income tax returns.

**9. Question:** What do you do when property is transferred from “A” to “B” when “A” is getting the *energy deduction*? Does “B” continue to get the deduction or does “B” have to re-file?

**Answer:** If the deduction is validly in place on the assessment date and A sells to B after the assessment date but later in the year, B would continue to receive A’s deduction for that year. For the following assessment date, B should apply for the deduction in B’s name.

**10. Question:** Some paperwork says *lease* with the same language as a *contract* as with intent to purchase. Can these individuals get deductions?

**Answer:** A person simply *leasing* a property cannot obtain deductions on it. The individual must be a buyer under a recorded contract that makes the buyer responsible for the taxes. Moreover, for a property being purchased under recorded contract to be considered a homestead, the contract must obligate the owner to convey title to the individual upon completion of all of the individual’s contract obligations.

**11. Question:** (Age Deduction) If a property is owned by mom (age 66) and daughter (age 42) but only the mom lives there and her adjusted gross income is less than \$25,000 does she qualify for the entire \$12,480 deduction? If the mom and daughter both reside in the house and the mom’s income is the only income for the household, how much of a deduction do they qualify for?

**Answer:** In the first scenario, if the mother and daughter own the property as joint tenants or tenants in common but only the mother resides there, then she would not be eligible for the deduction because her daughter does not also reside on the property. In the second scenario, if the mother and daughter are joint tenants or tenants in common and their income does not exceed the threshold, even if that’s only because the daughter has no income, the mother’s deduction would be reduced by half because the daughter is not at least 65 years old. Where you have an applicant who is at least 65 and one or more joint tenants or tenants in common are not at least 65, the deduction is reduced by an amount equal to the deduction multiplied by a fraction. The numerator of the fraction is the number of tenants who are not at least 65, and the denominator is the total number of tenants.

**12. Question:** (Age Deduction) A husband filed and qualified for age deduction and he then died at age 70. If his wife wants to file as a surviving spouse (age 58) does she qualify for this deduction?

**Answer:** A surviving spouse can obtain the over 65 deduction if the surviving spouse is at least 60 years of age on or before December 31 of the year preceding the year in which the deduction would appear on the tax bill, the surviving spouse’s deceased husband or wife was at least 65 at the time of death, the surviving spouse has not remarried, and the surviving spouse satisfies other requirements for eligibility.

**13. Question:** For taxpayers using the available deduction forms on the state website, can the auditor’s office accept an application that has been electronically submitted with a typed signature rather than an actual hand-written signature?

**Answer:** A person applying for a deduction using the fill-in PDF state forms available on the Department's website needs to physically sign the application. There are certain criteria for electronic signatures, and the fill-in PDF state forms are not set up for electronic signatures.

**14. Question:** Mortgage deduction for a contract buyer?

**Answer:** Yes, a person buying a property under recorded contract can have a mortgage deduction so long as the contract is recorded in the county recorder's office and requires the contract buyer to pay the taxes on the property.

**15. Question:** Concerning Veterans: If an individual is under 62 years of age and is receiving the partial veteran's disability, can they have regular disability on top of veterans?

**Answer:** Yes, and even if the person was receiving both the partially disabled veteran AND totally disabled veteran deductions, the person could still claim a regular disabled person deduction.

**16. Question:** If someone is applying for Vet's for the first time can they receive excise for the first year?

**Answer:** If a person applies for the disabled veteran deduction in 2015, he could obtain the excise credit (if any) in spring, 2016 when the tax bill is calculated and the auditor can determine if there is any unused portion of the deduction remaining. The vet could not obtain the credit in 2015 because it is not known at that time if there will be any unused portion of the deduction remaining after it is applied to the property.

**17. Question:** When do we apply the mortgage deduction when they file?

**Answer:** The answer depends on whether the applicant had any indebtedness on the preceding assessment date. If the person incurs a mortgage in June, 2015 and applies in July, 2015, there is no indebtedness as of the March 1, 2015 assessment date for which a deduction can be granted. If, however, the person had taken out the mortgage in February, 2015 and applied in July, 2015, then a deduction would be available for '15 Pay '16.

**18. Question:** If an application for a Heritage Barn is filed before we get a resolution for the \$50.00 charge, do we go back and charge them the fee? What about the yearly fee?

**Answer:** Statute does not require that the ordinance pre-date the heritage barn deduction application, so if the ordinance is adopted after an application is filed, the fee can still be charged to that applicant. There is only one fee related to the heritage barn deduction – an annual public safety fee for each heritage barn for which the person receives a heritage barn deduction. The fee may not exceed \$50.

**19. Our county runs into many questions in regards to homesteads being claimed in both Indiana and Illinois.**

**Question:** Scenario 1: A husband and wife own property jointly in Indiana and Illinois. They are married and filing a homestead in each state. The husband has an Indiana driver's license and voter registration but the wife has an Illinois driver's license and voter registration. For federal taxes they use an Illinois address. The husband files Indiana state taxes while the wife files Illinois state taxes. They claim that they should each receive a homestead. It is also apparent that the Indiana home is a summer home only. What is the best way to handle this situation?

**Answer:** From Indiana's perspective, a married couple can only claim one homestead deduction. The only exception to this rule is where spouses maintain separate principal places of residence in their respective names, and one spouse is in Indiana and the other spouse is in another state. In this narrow exception (see IC 6-1.1-12-37(n)), the Indiana spouse could claim a homestead deduction even if the out-of-state spouse is claiming a homestead deduction in that state.

**Question:** Scenario 2: An Indiana homestead is being claimed on Lakefront property which is also being advertised for rent on a vacation rental website. The couple owns a condo in Illinois; however no homestead is being claimed. Should the Indiana homestead be removed?

**Answer:** Only property being used as a homestead can receive a homestead deduction. If the property in question is not used as a homestead (if it is rented out or if it is merely a person's vacation home), then it should not be receiving a homestead deduction.

**20. Question:** If a sales disclosure is received in the name of only one person but there is knowledge of a spouse, do we have to wait before applying the homestead deduction for the spouse's information? Or can we go ahead and apply the deduction without that info?

**Answer:** If a person is married and is applying for a homestead deduction through the sales disclosure form, he must include his spouse's identification information on the form in order to be eligible for the deduction. If he fails to do so, then the application portion of the form would be incomplete and the applicant ineligible for the deduction.

**21. Question:** If a property is in the name of a trust and the person whose name is on the trust passes away, can the child that lives on the property claim the homestead deduction? The property is still in the name of the trust of the person who passed away.

**Answer:** When property is owned by a trust, the person with the beneficial interest in the trust can potentially claim certain deductions on the property. Here, if the child is not the one with the beneficial interest in the property, he or she would not be eligible to claim the deduction. Keep in mind that if the person passed away after the assessment date, the deduction would remain in place for that assessment date.

**22. Question:** A property is in the name of an LLC and the mother of the owner of the LLC lives on the property. The owner of the LLC wants to file a homestead deduction for his mother. He claims that his mother does the books, so that this makes her part of the LLC and she is therefore eligible for the deduction. What is the answer?

**Answer:** When property is owned by an LLC or other business, a person residing on the property can potentially claim a homestead deduction if the individual is a "shareholder, partner, or member of the entity that owns the property." Simply doing some work for the business may not be enough to establish a "shareholder, partner, or member" relationship with the business. The Department would recommend that the owner of the LLC provide any supporting evidence he has to the county attorney so that he or she can offer an opinion as to whether the mother is in fact a member of the business.

**23. Question:** Could the mortgage deduction form be revised to allow entry into the receipt portion of the form? Could all the forms auto-fill the necessary information in their receipt portion?

**Answer:** The Department will take this suggestion under advisement.

**24. Question:** Could the Homestead Deduction form be revised to include a receipt? If it were to include a receipt could it allow entry into the receipt portion? Could all the forms auto-fill the necessary information in their receipt portion? Does anyone use the Assessor portion? Since everyone uses computers to transfer all data in the allocation fields, could that area be deleted to leave room for a receipt so that the form could still fit on an 8 ½ X 11 sheet of paper?

**Answer:** The Department will take these suggestions under advisement and will review information pertaining to software integration to see if modifications to the assessor portion of the form are possible.

**25. Question:** What are the specifics of the early childhood education exemption?

**Answer:** The Department issued a memo on this topic in 2014. Please see [http://www.in.gov/dlgf/files/pdf/140508 - Vincent Memo - Legislative Changes Affecting Property Tax Exemptions.pdf](http://www.in.gov/dlgf/files/pdf/140508_-_Vincent_Memo_-_Legislative_Changes_Affecting_Property_Tax_Exemptions.pdf).

**26. Question:** You gave the example of a person coming in on December 31 to file for the homestead deduction, but who won't move in until February. Would they qualify for '14 Pay '15? I believe you said that they would probably not be eligible for '14 Pay '15. How is it then okay to take a sales disclosure form as a filing when the new owner would not be moving in until 30/60/90 days or more from the date of the sales disclosure?

**Answer:** If a person submitted a sales disclosure on December 31, 2014 but did not move into the property until February, 2015, the Department would be concerned about the property's eligibility for the deduction for '14 Pay '15. Statute provides that if the county auditor receives in "a calendar year a sales disclosure form" and "the homestead for which the sales disclosure form is submitted is otherwise eligible for a deduction," "the county auditor shall apply the deduction to the homestead for property taxes first due and payable in the calendar year for which the homestead qualifies." If the property was never used as the applicant's homestead in 2014, it would seem inappropriate to grant a homestead deduction for the 2014 assessment date (assuming there is no carry-over from a previous owner).

**27. Question:** What about the questions on the homestead deduction application that are not on the sales disclosure form, such as whether any part of the homestead will be used for a business or if the applicant owns any other property, etc.?

**Answer:** As the Department continues to review the sales disclosure form for potential revisions and improvements, it will take this question into consideration.

#### **LEGISLATIVE QUESTIONS:**

**28. Question:** Does HEA 1495 (meeting notices) mean we do not have to publish a legal notice of special meetings?

**Answer:** Notice must still be given, but now it can be given with only 48 hours' notice rather than six days' notice, as was required by the previous version of the law.

**29. Question:** SEA 436: Does the exemption apply only to property acquired after July 1, 2015 or to “old” and new property? Example: A company has \$30,000 in personal property and acquires \$10,000 more. Is the company not entitled to the exemption at all, or does the exemption apply only to the new \$10,000 property?

**Answer:** The “under \$20,000” exemption applies to old and new personal property located in the county. The second question depends on whether the \$10,000 of property is in the same county where the \$30,000 property is, in which case the taxpayer would not qualify for any exemption. If the \$10,000 were in a different county, the taxpayer might qualify in that county.

**30. Question:** HEA 1603: Do the new notice requirements apply to all appeals (e.g., *Forms 130 & 133*)? (In other words appeals of assessments and correction of errors)

**Answer:** Yes, the notice encompasses all appeals under IC 6-1.1-15 (130 and 133 appeals).

**31. Question:** In reference to SEA 330, how should we handle parcels that are a combination of agricultural land (which is exempt from municipal taxes) and possibly other types of land and /or improvement assessments that are *not* exempt from municipal taxes? Are these going to have to be calculated manually? Would you still suggest that these properties be put in a new taxing district?

**Answer:** Yes, when a municipality is annexing territory and granting the agricultural exemption, the Department recommends putting the agricultural land into its own taxing district. The unit needs to be sure that it either identifies the taxing district as municipal tax exempt or it needs to be sure the Department’s applicable budget field representative knows that it is municipal tax exempt. The Department will then include that taxing district for the purposes of computing the tax rates for all other units (county, school, township, etc.), but would not include it in the municipal tax base.

#### **MISCELLANEOUS:**

**32. Question:** If an annexation results in a new tax district, would you still recommend another new district for MTE (“municipal tax exempt”)?

**Answer:** Yes, as this is the easiest method for excluding the agricultural land from the municipal taxes.

**33. Question:** (Henry Co.) We have some property that was annexed in to a corporation. The problem is the property is in a different township from the township the corporation was in (Spiceland Township, Spiceland Corp.) (Franklin Township, Spiceland Corp.) Spiceland twp. and Spiceland corp. pay into the Spiceland Library but the Franklin twp. pays into the county library. What library would the new taxing district pay into?

**Answer:** If the corporate boundaries of a unit and a Class 1 public library are coextensive, territory annexed by the unit becomes part of the library district if the annexed territory is not already part of another library district. If the territory annexed by a unit is already a part of another library district, the territory remains a part of the other library district unless the library boards of both public libraries pass a resolution of transfer under IC 36-12-2-4.

**34. Question:** St. Joseph and Lake Counties have a part of their tax rate exempt from the circuit breaker caps by statute. Is there an expiration date for this exemption or is it dependent on when that specific debt has been satisfied?

**Answer:** Under Article 10 of the state constitution, this exemption expires January 1, 2020.

**35. Question:** We were told we cannot zipfile our new Homesteads to the state site anymore. Instead we have to go in and add them daily. Has a solution to this problem been made yet so we can transmit all of them at the same time?

**Answer:** The zip file policy was put on indefinite hold by IOT, so the Department is still receiving zip files. The county may proceed to send them as zip files. Questions about the process may be directed to [homestead@dlgf.in.gov](mailto:homestead@dlgf.in.gov).

**36. Question:** A state assessed utility contacted our office after they received their 2014-2015 tax bill. They said that on two of their tax bills the assessment is wrong. How do they go about getting that corrected?

**Answer:** The taxpayer needs to provide the county with 11-As on which they feel their assessment should have been based and the county needs to contact the Department and verify that the 11-As are the latest ones if they do not match either of the distributable value files the Department sent out in July (the Department usually sends at least the non-rail files again in October because there are amendments and omitted taxpayers that have filed since July). Sometimes corrections are made after October, but the Department sends those just to the counties that are involved. If the taxpayer's values do not match either of the Department distributable files sent out in either July or October, then the taxpayer can contact the Department to explore the issue.

**37. Question:** Do we still need to run the assessor books? The records are on the system to pull off anytime we need it, so do we still have to have them printed?

**Answer:** If this question pertains to IC 6-1.1-5-8, which provides that "the county auditor of each county shall annually prepare and deliver to the township assessor (if any) or the county assessor a list of all real property entered in the township or county as of the assessment date," the Department has no objection to the auditor providing the list electronically to the assessor.

**38. Question:** Are there any planned changes for the TIF neutralization form this year?

**Answer:** The Department is currently working on the TIF Neutralization Form and will be releasing it in the coming weeks. In preparing the form, the Department is reviewing a number of different circumstances and how they interact with the TIF Neutralization Form. The Department will update the TIF Neutralization Form as needed to reflect the outcome of this review.

**39. Question:** When doing an "upload" from our software for Form 1's, does it need to be uploaded as line by line or can it be uploaded as 1s, 2s, 3s, 4s, etc (like one lump sum for salaries, etc.)?

**Answer:** Indiana Code 36-2-5 requires counties to prepare their annual budgets in an itemized way. As the Budget Forms on Gateway serve as a mechanism to provide this information to the public, the Department recommends that the upload of data to the Form 1 should be in itemized form.



**40. Question:** Can the Department tell me how to tell my county council how much they need to cut at budget time? This is confusing to me. I don't know how to calculate that.

**Answer:** The amount by which a county council may need to reduce its budget is dependent on both the amount originally adopted by the county council and the unit's maximum levy. The final maximum levy to which a county will be held is dependent on a number of factors including local option income taxes, outcomes of excess levy appeals, and certain line-item or fund budgets adopted by the county council. As a result, it is not possible to know the exact maximum levy that would be available to a county during the budget adoption process. County officials interested in having an estimate of the unit's maximum levy can discuss this with their budget field representatives during budget workshops.

**41. Question:** Can the affidavit for excise taxes which an individual takes to the BMV to verify they do not own property be certified instead of notarized?

**Answer:** No, it must be notarized.

**42. Question:** Last year a library asked for binding adoption even though they were subject to non-binding review and recommendation. Is that OK?

**Answer:** No, if a unit is not statutorily subject to binding adoption, then the unit's fiscal body is legally obligated to adopt the budgets, tax rates, and tax levies for that unit. The unit's fiscal body cannot delegate this responsibility.

## **GATEWAY/BUDGET**

**43. Question:** If we upload data to Gateway, will we still have an opportunity to make changes manually if it is necessary?

**Answer:** Yes, users will still be able to update data in the Data Entry for CNAV and Form 22 ("DECAF") application manually after uploading it through the extract generated from the Tax and Billing systems. The same is true for budget data uploads. The data is editable after upload.

**44. Question:** Will we be able to upload FIT/CVET Form 22 distributions from Excel, CSV file to Gateway? Those distributions do not currently run through our tax system.

**Answer:** The Department is still exploring a solution to this inquiry. During Phase I of software compliance testing, Tax and Billing vendors demonstrated the ability to export Form 22 extracts that included FIT/CVET data once it is entered into the Tax and Billing system. At this point in time, the Department anticipates only providing the flat file upload to accommodate the files extracted from the Tax and Billing systems, but should have a more definitive answer in the coming months.

**45. Question:** CVET & FIT are not processed through our taxing system. Is there an Excel format available that is or can be used to upload in Gateway?

**Answer:** The Department is still exploring a solution to this inquiry. During Phase I of software compliance testing, Tax and Billing vendors demonstrated the ability to export Form 22 extracts that included FIT/CVET data once it is entered into the Tax and Billing system. At this point in time, the

Department anticipates only providing the flat file upload to accommodate the files extracted from the Tax and Billing systems, but should have a more definitive answer in the coming months.

**46. Question:** For purposes of asking departments to submit their proposed budgets to the Council and auditor, our county still uses Budget Form 1 and Form 144. Are these forms still the appropriate ones to use?

**Answer:** The Form 144 is a form prescribed by the State Board of Accounts. While the Department does not collect this information through Gateway nor utilize it during the Department's budget review process, the Department does not take issue with counties using an offline version of the Form 144 for internal purposes. Questions about the Form 144 may be directed to the State Board of Accounts. Use of the Budget Form 1 by departments is acceptable and encouraged, as the departments would then be providing this information to the county auditor in the form in which it ultimately needs to be entered into Gateway.